

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Trevor Hackett	Team: Squad #8	CCRB Case #: 202001338	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/15/2020 10:57 PM	Location of Incident: North West corner of Troy Avenue and Prospect Place	Precinct: 77	18 Mo. SOL 8/15/2021	EO SOL 4/1/2022	
Date/Time CV Reported Sun, 02/16/2020 5:11 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 02/16/2020 5:11 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Gregory Trimarchi	09057	957227	CD OFF
2. LT Forrest Hirsch	00000	941905	PBBN SU
3. DTS Salvatore Melore	4826	952004	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Reginald Smith	4482	951278	C/SCENE

Officer(s)	Allegation	Investigator Recommendation
A.LT Forrest Hirsch	Abuse: Lieutenant Forrest Hirsch stopped an individual.	
B.LT Forrest Hirsch	Abuse: Lieutenant Forrest Hirsch frisked § 87(2)(b)	
C.LT Forrest Hirsch	Abuse: Lieutenant Forrest Hirsch frisked § 87(2)(b)	
D.DTS Salvatore Melore	Force: Detective Salvatore Melore used physical force against § 87(2)(b)	
E.LT Forrest Hirsch	Force: Lieutenant Forrest Hirsch used physical force against § 87(2)(b)	
F.POM Gregory Trimarchi	Abuse: Police Officer Gregory Trimarchi failed to provide an individual with a business card.	
G.LT Forrest Hirsch	Abuse: Lieutenant Forrest Hirsch failed to provide an individual with a business card.	

Case Summary

On February 16, 2020, § 87(2)(b) filed this complaint on behalf of her 15-year-old son, § 87(2)(b) via the CCRB website.

On February 15, 2020, at approximately 10:57 p.m., § 87(2)(b) was walking with a friend he identified as “§ 87(2)(b)” on Prospect Place towards the intersection of Troy Avenue in Brooklyn. Police Officer Gregory Trimarchi of the 103rd Precinct and Detective Reginald Smith, Detective Salvatore Melore, and Lieutenant Forrest Hirsch of Patrol Borough Manhattan North, ordered § 87(2)(b) and § 87(2)(b) to stop (**Allegation A – Abuse of Authority, § 87(2)(g)**). PO Trimarchi frisked § 87(2)(b) and Det. Melore frisked § 87(2)(b) (**Allegation B and C – Abuse of Authority, § 87(2)(g)**). Det. Melore allegedly threw § 87(2)(b) into a gate and Lt. Hirsch punched § 87(2)(b) in the face (**Allegation D – Force, § 87(2)(g)**; **Allegation E – Force, § 87(2)(g)**). § 87(2)(b) was arrested for criminal possession of a firearm and resisting arrest. Officers did not provide § 87(2)(b) with a business card (**Allegations F and G – Abuse of Authority, § 87(2)(g)**).

Body-Worn Camera footage was obtained from Det. Melore, PO Trimarchi, Lt. Hirsch, and Det. Smith (**Board Review 01, 02, 03, 04, 05**).

Allegation A – Abuse of Authority: Lieutenant Forrest Hirsch stopped § 87(2)(b)

Allegation B – Abuse of Authority: Lieutenant Forrest Hirsch frisked § 87(2)(b)

Allegation C – Abuse of Authority: Lieutenant Forrest Hirsch frisked § 87(2)(b)

BWC footage from Det. Melore shows, at 00:05, visible on the media player on the bottom of the screen, Det. Melore exits the vehicle and approaches an older individual on the sidewalk. Det. Melore speaks with him momentarily before approaching § 87(2)(b) who is continuing to walk towards Det. Melore. At 00:25, Det. Melore approaches § 87(2)(b) puts his hands on § 87(2)(b)'s torso, and begins to pat him down. PO Trimarchi lifts the right side of § 87(2)(b)'s coat by his right pants pocket. A struggle ensues and § 87(2)(b) ends up facing against the fence along the sidewalk. There is no audio captured for this aspect of the incident (**Board Review 01**).

BWC from PO Trimarchi shows, at 00:20, visible on the media player at the bottom of the screen, PO Trimarchi exits the vehicle and approaches § 87(2)(b) walks towards PO Trimarchi and opens his jacket while § 87(2)(b) continues walking down the sidewalk. PO Trimarchi pats down § 87(2)(b) torso, waistband area, as well as the area around his pants pockets. The BWC footage does not capture the audio of this aspect of the incident (**Board Review 02**).

§ 87(2)(b)'s statement was generally consistent with the BWC footage. On February 15, 2020, at approximately 10:57 p.m., § 87(2)(b) was walking with his friend, “§ 87(2)(b)” (last name and contact information unknown), on Prospect Place towards Troy Avenue in Brooklyn. § 87(2)(b) was wearing a red jacket with a blue hoodie, blue jeans, and was carrying a Walther 9mm pistol in his front waistband. The two individuals were coming from a chicken restaurant and were walking to § 87(2)(b) apartment. As they were walking, § 87(2)(b) noticed an unmarked vehicle, occupied by PO Trimarchi, Lt. Hirsch, Det. Melore, and Det. Smith. The officers exited the police vehicle and ordered § 87(2)(b) and § 87(2)(b) to stop. § 87(2)(b) turned away from the officers and began walking in the opposite direction while § 87(2)(b) immediately stopped (**Board Review 07**). In a follow up statement, § 87(2)(b) stated he did not believe that any part of the firearm would have been visible to the officers when they approached. § 87(2)(b)'s sweatshirt was not tight fitting and covered his waistband. He did not believe that officers would be able to see he was concealing a firearm. § 87(2)(b) did not reach for the firearm and did not make any movements with his hands. § 87(2)(b) walked

approximately four steps before the officers caught up with him and told him to stop, which he did. The officers did not say anything to § 87(2)(b) between ordering him to stop and patting him down. Det. Melore patted down § 87(2)(b) starting from his shoulders. When Det. Melore reached § 87(2)(b)'s waist he asked § 87(2)(b) what he had in his waistband, at which point § 87(2)(b) Antony attempted to run. § 87(2)(b) did not observe any conversation between § 87(2)(b) and the officers or see if he was frisked (**Board Review 08**).

§ 87(2)(b) refused to provide a last name or contact information for § 87(2)(b). This information was not captured on BWC, nor was it listed in any police documents associated with this incident. As such, a statement could not be obtained from § 87(2)(b).

Lt. Hirsch's statement was somewhat consistent with the BWC footage. Lt. Hirsch stated the officers were in the area due to an increase in gunpoint robberies in the 77th Precinct, specifically in and around the Kingsboro Projects. When they reached the intersection of Prospect Place, the officers observed an older man who was being followed by § 87(2)(b) and § 87(2)(b). Lt. Hirsch could not recall which officer noticed the individuals first. Lt. Hirsch observed § 87(2)(b) and his friend whispering to each other and walking briskly behind the older individual. § 87(2)(b) and § 87(2)(b) were walking approximately 15 feet behind the older individual but quickly closed this gap to approximately 3 feet within several seconds. The officers observed the individuals for less than one minute. Lt. Hirsch did not make any additional observations which led him to believe that § 87(2)(b) and § 87(2)(b) were going to commit a crime. Lt. Hirsch did not make any observation which led him to believe that either § 87(2)(b) or his friend were carrying a weapon. Lt. Hirsch did not recall specifically what was said between the officers in the vehicle but stated that they discussed the possibility of whether § 87(2)(b) and § 87(2)(b) were going to rob the older man. When the officers turned onto Prospect Place, § 87(2)(b) turned and approached the officers' vehicle, unzipped his jacket and stated, "Check me, I don't have anything." The officers had not said anything to § 87(2)(b) prior to this. The officers exited their vehicle and observed § 87(2)(b) grab his waistband, make a U-turn and walk towards the tree line where there was a metal fence. Lt. Hirsch and Det. Melore approached § 87(2)(b) but did not say anything to him. § 87(2)(b)'s hand was formed in a C-shape as he continued to grasp at the front of his waistband, which led Lt. Hirsch to believe that § 87(2)(b) may be reaching for a firearm. When asked if Det. Melore frisked § 87(2)(b) Lt. Hirsch stated that Det. Melore immediately grabbed § 87(2)(b)'s right arm while he was reaching for his waistband and alerted Lt. Hirsch that there was a firearm. Lt. Hirsch believed that an officer, whom he could not recall, approached § 87(2)(b) but did not recall what was said or if the officer frisked § 87(2)(b). When asked if the officers had stopped § 87(2)(b) Lt. Hirsch stated that § 87(2)(b) had stopped the officers by approaching them and initiating the interaction [Lt. Hirsch was the supervisor at the location and as such, these allegations have been pled to him] (**Board Review 09**).

§ 87(2)(g)
§ 87(2)(b) PO Trimarchi stated that once § 87(2)(b) noticed the police vehicle, he reached into his waistband and turned away from the officers. PO Trimarchi exited the police vehicle and verbally identified himself as a police officer. Upon doing so, § 87(2)(b) stopped, opened his jacket, and gave PO Trimarchi consent to search him, though PO Trimarchi could not recall specifically what was said. PO Trimarchi thought this behavior was strange and believed the individual was attempting to distract the officers from § 87(2)(b) who continued walking away from the officers. § 87(2)(b) was not ordered to stop or given any other commands. PO Trimarchi frisked § 87(2)(b) from his shoulders to his ankles, which yielded negative results for any contraband. PO Trimarchi denied searching § 87(2)(b) (**Board Review 10**).

Det. Melore stated that upon exiting the vehicle, he approached the older individual, identified himself, and asked if he knew either § 87(2)(b) or § 87(2)(b). The older individual shook his head and indicated that he did not. Det. Melore then walked towards § 87(2)(b) who was walking towards him and began to veer to the right towards the fence line of the sidewalk and turned his body to the right. This led Det. Melore to believe that § 87(2)(b) may be concealing a weapon on the right side of his waist. Det. Melore did not recall if he identified himself to § 87(2)(b). When Det. Melore approached § 87(2)(b) Det. Melore immediately put his hand on the right side of § 87(2)(b)'s waist and under a layer of fabric, felt a hard metal L-shaped object. Det. Melore has been involved in over 100 firearms arrests and immediately knew this object was a firearm. Det. Melore did not recall if he alerted the other officers about the firearm. Det. Melore did not have the opportunity to pat down § 87(2)(b) anywhere else because he attempted to flee. Det. Melore could not recall any specific details of any conversation between § 87(2)(b) and PO Trimarchi (**Board Review 11**).

A stop report prepared by PO Trimarchi was obtained and was generally consistent with his statement. The stop report does not mention any information about officers suspecting § 87(2)(b) or § 87(2)(b) of preparing to commit a robbery (**Board Review 13**).

An officer may stop a person when the officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a felony or misdemeanor. An officer may frisk § 87(2)(b) when they reasonably suspect that the individual may be armed and present a risk of harm to the officer. If an apparent weapon is revealed during a frisk, a limited search may be conducted only of the area where the apparent weapon was discovered People v. DeBour, 40 N.Y. 2d 210, 233 (1976) (**Board Review 14**).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation D: Force – Detective Salvatore Melore used force against § 87(2)(b)

Allegation E: Force – Lieutenant Forrest Hirsch used force against § 87(2)(b)

§ 87(2)(b) stated that when Det. Melore began to pat him down, he attempted to run, but Det. Melore grabbed him by the hood of his sweatshirt and swung him into a gate. § 87(2)(b)'s face hit the gate and he sustained a cut above his right eye. Seconds later, Lt. Hirsch approached § 87(2)(b) from behind while he was facing the gate and punched § 87(2)(b) twice on

the left side of his head. § 87(2)(b) was not moving his body and was not resisting when Lt. Hirsch hit him. An officer removed the gun from § 87(2)(b)'s waistband (**Board Review 07**). In a follow up statement, § 87(2)(b) said that once Det. Melore threw him into the gate, § 87(2)(b) reached for his waistband to throw the firearm, but it had already fallen out. § 87(2)(b) was facing away from Lt. Hirsch with both his hands against the gate when Lt. Hirsch approached from behind and hit § 87(2)(b) on the left side of his forehead (**Board Review 08**).

Lt. Hirsch stated that once Det. Melore detected the firearm and grabbed § 87(2)(b)'s right hand, Lt. Hirsch, who was on the left side of § 87(2)(b) grabbed his left arm. Lt. Hirsch and Det. Melore “wrestled” with § 87(2)(b)'s hands as both were reaching towards his waistband. Lt. Hirsch denied that he or any other officer threw § 87(2)(b) into a fence. § 87(2)(b) resisted officers by continuing to reach for the gun and pull away his hands. The officers ordered § 87(2)(b) not to reach for his waistband multiple times. Det. Melore grabbed the firearm in § 87(2)(b)'s waistband and was attempting to pull his other hand off it. Lt. Hirsch punched § 87(2)(b) once on the left side of his head, the force from which caused § 87(2)(b) to hit his head against the steel fence. Lt. Hirsch did so to stun § 87(2)(b) and get focus off the firearm. After Lt. Hirsch struck § 87(2)(b) the firearm fell out of his waistband and onto the ground. § 87(2)(b) became compliant, and the officers were able to handcuff him. Lt. Hirsch believed that the force of his punch caused § 87(2)(b) to hit his head against the steel fence resulting in a small laceration near his right eyebrow. Lt. Hirsch chose to strike § 87(2)(b) in the head because this was the only part of his body that was accessible from where he was standing] (**Board Review 09**).

§ 87(2)(g)
§ 87(2)(b) Det. Melore denied that he or any other officers swung § 87(2)(b) into a fence. Det. Melore stated that he immediately grabbed the firearm in § 87(2)(b)'s waistband and wrapped his other arm around § 87(2)(b)'s waist. The other officers grabbed § 87(2)(b) and due to the ensuring struggle and shifting bodyweight, stumbled against the fence. Det. Melore PO Trimarchi and Det. Smith also acknowledged each grabbing one of § 87(2)(b)'s arms during the struggle as he was reaching towards his waistband (**Board Review 11, 10, 12**).

The Threat Resistance and Injury Report prepared by Lt. Hirsch was obtained and was consistent with the officers’ statements (**Board Review 15**).

BWC from PO Trimarchi shows, at the 00:50 second-mark, visible on the media player at the bottom of the screen, PO Trimarchi approaches Det. Melore, who is frisking § 87(2)(b). At 00:54 seconds, § 87(2)(b) abruptly turns away and attempts to flee from Det. Melore, who immediately grabs § 87(2)(b) from behind and appears to be holding him around the waist with both arms. PO Trimarchi and Lt. Hirsch each run towards § 87(2)(b) and appear to grab him. As the struggle continues, the officers and § 87(2)(b) move against a metal fence. At 01:00, the audio begins and an officer states, “I got one hand, take his other hand out.” § 87(2)(b) is hunched over facing the fence. It is not clear where his hands are. At 01:09, § 87(2)(b) can be heard saying, “They’re punching me.” At 01:21, § 87(2)(b) is handcuffed. At 01:45, § 87(2)(b) repeatedly states, “Y’all got it.” At 02:01, § 87(2)(b) tells the officers that they punched him and Lt. Hirsch replies, “Yes I did. I know I did.” At 02:50, PO Trimarchi retrieves the firearm from the ground next to where § 87(2)(b) was standing (**Board Review 02**).

NYPD Patrol Guide, Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is

reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 16**).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation F: Abuse of Authority – Lieutenant Forrest Hirsch failed to provide § 87(2)(b) with an RTKA card.

Allegation G: Abuse of Authority – Police Officer Gregory Trimarchi failed to provide § 87(2)(b) with an RTKA card.

§ 87(2)(b) stated that § 87(2)(b) was not summonsed or arrested and did not observe any officer provide him with a business card (**Board Review 07**).

Lt. Hirsch stated that § 87(2)(b) was not summonsed or arrested and that he did not interact with him during the incident and did not recall any other officer doing so. Lt. Hirsch did not provide § 87(2)(b) with a business card and was not aware of any other officer doing so. Lt. Hirsch did not provide him with a business card because they had just arrested § 87(2)(b) who is a teenager, and who was injured and his concern was getting him checked by EMS [Given that Lt. Hirsch was the supervisor on scene, this allegation has been pled to him] (**Board Review 09**).

PO Trimarchi stated that if the individual was not provided with a business card, it was an oversight due to the distractions of struggling with an armed suspect, gaining control of the scene, and collecting evidence [Given that PO Trimarchi frisked § 87(2)(b) this allegation has also been pled to him] (**Board Review 10**).

Det. Melore and Det. Smith did not recall whether § 87(2)(b) was provided with a business card (**Board Review 11, 12**).

BWC footage from Det. Smith shows, beginning at 00:30 seconds, visible on the media player at the bottom of the screen, § 87(2)(b) is handcuffed and § 87(2)(b) can be seen standing nearby. The officers stay at the location with § 87(2)(b) and § 87(2)(b) for three minutes and fifteen

seconds until § 87(2)(b) is transported to the stationhouse. During this time, no officer provides Shanar with a business card (**Board Review 05**).

NYPD Patrol Guide, Procedure 203-09 states officers are required to offer a business card at the conclusion of the following law enforcement activities, except in cases when a summons is issued or an arrest is made, as follows: noncustodial questioning of individuals suspected of criminal activity; a stop where an officer has individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter; frisk; and/or a search of persons or property, including vehicles (**Board Review 17**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 20**).
- PO Trimarchi has been a member of service for six years and this is the first CCRB complaint to which he has been a subject.
- Lt. Hirsch has been a member of service for 14 years and has been a subject in 15 additional CCRB complaints and 47 additional allegations, 4 of which were substantiated:
 - Case #201016064 involved substantiated allegations of a stop and a frisk against Lt. Hirsch. The Board recommended instructions and the NYPD imposed instructions.
 - Case #201306080 involved substantiated allegations of an entry of a premises and offensive language against Lt. Hirsch. For the entry of the premises, the Board recommended charges and the NYPD imposed a forfeiture of 5 vacation days. For the offensive language, the Board recommended charges and the NYPD did not impose a penalty.
- Det. Melore has been a member of service for 8 years and has been a subject in 7 additional CCRB complaints and 13 additional allegations, 2 of which were substantiated:
 - Case #201607556 involved substantiated allegations of a stop and a refusal to provide name and shield number. For the stop allegation, the Board recommended Command Discipline B and the NYPD imposed Command Discipline A. For the refusal to provide name and shield number, the Board recommended Command Discipline B and the NYPD imposed Command Discipline A. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 23, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 19**).

- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 18**).

Squad No.: 08

Investigator: Trevor Hackett Inv. Trevor Hackett 11/23/2021
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 11/29/2021
Signature Print Title & Name Date